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7	UNITED STATI	ES DISTRICT COURT
8	FOR THE EASTERN DISTRICT OF CALIFORNIA	
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10	JOHN DANIEL WEST,	No. 2:21-cv-0330-EFB P
11	Petitioner,	
12	V.	ORDER AND FINDINGS AND
13	CALIFORNIA CORRECTIONAL	RECOMMENDATIONS
14	HEALTH CARE SERVICES, et al.,	
15	Respondents.	
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17	Petitioner is a state prisoner without co	ounsel seeking a writ of habeas corpus pursuant to
18	28 U.S.C. § 2254. ¹ The petition (ECF No. 1) does not challenge petitioner's underlying	
19	conviction; it instead concerns the alleged del	iberate indifference of Dr. Htay Soe at Wasco State
20	Prison to plaintiff's severe kidney disease. Ac	ccordingly, as discussed below, the petition must be
21	dismissed. See Rule 4, Rules Governing § 22.	54 Cases (requiring summary dismissal of habeas
22	petition if, upon initial review by a judge, it pl	ainly appears "that the petitioner is not entitled to
23	relief in the district court").	
24	Federal courts offer two main avenues	to relief on complaints related to one's
25	imprisonment – a petition for habeas corpus p	ursuant to 28 U.S.C. § 2254, and a civil rights
26	complaint pursuant to 42 U.S.C. § 1983. Cha	llenges to the validity of one's confinement or the
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28	¹ Petitioner has paid the filing fee.	

1	duration of one's confinement are properly brought in a habeas action, whereas requests for relief	
2	turning on the circumstances of one's confinement are properly brought in a § 1983 action.	
3	Muhammad v. Close, 540 U.S. 749, 750 (2004) (citing Preiser v. Rodriguez, 411 U.S. 475, 500	
4	(1973)); see also 28 U.S.C. § 2254(a) ("[A] district court shall entertain an application for a writ	
5	of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court only	
6	on the ground that he is in custody in violation of the Constitution or laws or treaties of the United	
7	States."); Advisory Committee Notes to Rule 1 of the Rules Governing § 2254 Cases.	
8	Because petitioner's claim challenges the conditions of his confinement as opposed to the	
9	legality or duration of his confinement, his claim is not cognizable in this federal habeas action.	
10	This action must be dismissed without prejudice to petitioner commencing a new action using the	
11	court's form for a civil rights complaint filed by a prisoner.	
12	Accordingly, IT IS ORDERED that:	
13	1. The Clerk is directed to send petitioner a form for filing a civil rights complaint by a	
14	prisoner; and	
15	2. The Clerk is directed to randomly assign a United States District Judge to this case.	
16	Further, IT IS RECOMMENDED that petitioner's application for a writ of habeas corpus	
17	be denied.	
18	These findings and recommendations are submitted to the United States District Judge	
19	assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days	
20	after being served with these findings and recommendations, any party may file written	
21	objections with the court and serve a copy on all parties. Such a document should be captioned	
22	"Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections	
23	within the specified time may waive the right to appeal the District Court's order. Turner v.	
24	Duncan, 158 F.3d 449, 455 (9th Cir. 1998); Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991). In	
25	his objections petitioner may address whether a certificate of appealability should issue in the	
26	event he files an appeal of the judgment in this case. See Rule 11, Rules Governing § 2254 Cases	
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1	(the district court must issue or deny a certificate of appealability when it enters a final order
2	adverse to the applicant).
3	Dated: April 16, 2021.
4	EDMUND F. BRENNAN UNITED STATES MAGISTRATE JUDGE
5	UNITED STATES WAOISTRATE JODGE
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